

## **GUIDELINES & INSTRUCTIONS FOR GARNISHMENT PROCEEDINGS**

### **GARNISHMENT – LAW**

A post-judgment collection process whereby a judgment creditor may levy against a portion of a judgment debtor's wages or bank accounts. Circuit Courts may not issue executions or summons in garnishment on judgments of the general district courts until the district courts papers have been returned to the clerk of the circuit court for filing and preserving the record under Virginia Code §16.1-116.

### **VIRGINIA CODE SECTION REFERENCE:**

§8.01-466, 8.01-511 et seq, 16.1-69.55(4) and 20-78.1

DOCUMENT TYPE:           SUGGESTION IN GARNISHMENT  
                                  GARNISHMENT SUMMONS  
                                  GARNISHMENT EXEMPTION CLAIM

### **1.     Filing Requirements**

Prior to any post-docketing collection of a Judgment, the Judgment must be duly docketed in the Fairfax County Circuit Court -Land Records Section. Once Judgment has been entered in the Fairfax County Circuit Court or recorded in the Clerk's Office of the Circuit Court of Fairfax County from a different court, a Judgment number will be designated to identify the judgment.

Garnishments cannot be issued unless the Judgment has been docketed for at least 21 days. For Judgments rendered by the Fairfax County Circuit Court a garnishment cannot be issued until 21 days after the entry of the Final Order. Any request to proceed with post-docketing collection where the 21 days has not passed, will require leave of court to proceed.

The following information required on the Garnishment documentation can be accessed through the Courts Automated Retrieval System (CARS). These computers are located along the wall towards Land Records Division of the Clerk's Office. Or the information can be accessed through the Courts CPAN program.

- Judgment Number
- Date of Judgment
- Place of Judgment (This is where Judgment was initiated)
- Judgment Principal
- The name of the Plaintiff/Creditor and Defendant/Debtor must match the judgment exactly as it was docketed in this court.

A. Filing Fees:

**Judgment Amounts under \$500.00**

\$15.00 Clerks Fee	§17.1-275A(7)
\$ 1.50 Clerk's Execution fee	§17.1-275A(44)
\$ 4.00 Law Library Tax	§42.1-70
\$ 4.00 Legal Aid Fee	§17.1-278
\$ 3.00 Tech Trust Fund	§17.1-279
<u>\$12.00</u> Sheriff's Execution fee	§17.1-272
\$39.50 plus service	

**Judgment Amounts over \$500.00**

\$25.00 Clerks Fee	§17.1-275A(7)
\$ 1.50 Clerk's Execution fee	§17.1-275A(44)
\$ 4.00 Law Library Tax	§42.1-70
\$ 4.00 Legal Aid Fee	§17.1-278
\$ 3.00 Tech Trust Fund	§17.1-279
<u>\$12.00</u> Sheriff's Execution fee	§17.1-272
\$49.50 plus service	

**Private Process Service:**

Sheriff's Execution fee is ***not*** collected for private process service.

Total fee for Judgments not exceeding \$500.00      \$27.50

Total fee for Judgments over \$500.00                \$37.50

**Sheriff Service Fees:**

Service fee for Debtor and Garnishee is \$12.00 for each service.

Please advise the Clerk as to what jurisdiction service is to be effected.

Filing fees & applicable Service Fees are payable to:

Clerk of the Circuit Court  
4110 Chain Bridge Road  
Fairfax, Virginia 22030  
Attn: Civil Intake Garnishment Clerk

Service Fees in the jurisdiction of Norfolk or Virginia Beach - a separate check is required payable to the "High Constable" of that jurisdiction.

B. Required Documents

- A fully completed Original Suggestion in Garnishment Form
- A fully completed Original Garnishment Summons Form plus six (6) copies.
- A fully completed Original Garnishment Exemption Claim Form plus six (6) copies.
- A stamped envelope addressed to the Defendant/Debtor at Defendant's last known address.

***NOTE: A fully completed set of the above documents including the additional copies requires both the front and back of the said forms to be submitted at the time of filing.***

C. All garnishment transactions must include the Defendant's social security number. Otherwise, a certification by the judgment creditor, his agent or attorney, that he/she has made a diligent good faith effort to secure the social security number of the judgment debtor and has been unable to do so must be stated on the Suggestion for Summons in Garnishment.

D. Only one Garnishnee can be named in any one wage garnishment action.

2. **Service of Garnishment Summons and Exemption Claim Forms on Out-of-State Principal Defendants**

Section 8.01-511 of the Code of Virginia requires that a sheriff of this state or any authorized officer attempt service or serve the Principal Defendant with the Summons and Exemption Claim Forms before an Order for Payment can be entered. If the Principal Defendant is not subject to service in the State of Virginia, the amount required by statute for service of such pleadings must be filed along with these pleadings with the filing fees payable to the Clerk of the Circuit Court. When the sheriff's return is filed along with proof of the sheriff's mailing as set out in § 8.01-511 of the Code, service on the Principal Defendant will be proper. There is no requirement that these pleadings must also be forwarded to out-of-state Principal Defendants by certified mail.

3. **Return Date**

The summons in garnishment shall be returnable no less than thirty (30) days or no more than ninety (90) days after the date of filing, except that in the instance of a wage garnishment, the summons shall be returnable not more than 180 days after the date of filing on a Friday at 9:00 a.m.

The case will not be placed on the Court's docket for that date and no appearance by the plaintiff or counsel is necessary. **(Except in garnishment actions arising from support orders, Orders for Payment may not be submitted in advance of the return date.)**

4. **Garnishment Praecept Form**

On the return date or within 21 days thereafter (or in the case of a request to dismiss the garnishment at anytime up to or within 21 days after the return date) the Court's Garnishment Praecept Form must be completed and filed by the plaintiff or plaintiff's counsel. If request is made for entry of an Order for Payment or a Rule to Show Cause, the original of that pleading should be filed with the Praecept Form. Prior to requesting the entry of a Rule to Show Cause against a Garnishee, parties are encouraged to contact the Co-Defendant to determine why an Answer has not been filed. Proposed Order for Payment and Rule to Show Cause forms are available in the clerk's office in the Garnishment packet or can be accessed on the court's web-site at:

<http://www.fairfaxcounty.gov/courts/circuit/CCR-G-10.htm>

Counsel and pro se parties are encouraged to use these forms. Orders for Payment and Rules to Show Cause will be forwarded by the clerk's office to chambers within forty-eight hours of filing in the clerk's office.

5. **Service of Orders for Payment and Rules to Show Cause**

It is the responsibility of the plaintiff or plaintiff's counsel to see to it that these pleadings are properly served on the Garnishee. The clerk of the court will mail a copy of the Order for Payment to the Garnishee if the clerk is supplied with an extra copy of the proposed Order and a stamped envelope addressed to the garnishee. Rules to Show Cause should be served pursuant to § 8.01-296 of the Code of Virginia. Any questions regarding the Praecipe Notice, Rule to Show Cause and Order of Payments should contact Court Services Section at 703-691-7320 press 3, 1, 0.

6. **Garnishment Review Date**

On the fourth Friday following the return date, all garnishment actions which have not been concluded by the entry of an Order for Payment will be placed on the 9:00 a.m. without a Judge docket for review. Appearance by the plaintiff or counsel **is not required**. The judges' law clerks will review each of these files to assure the timely filing of the Court's Garnishment Praecipe Form. If the form has been filed, the Court file will be forwarded to a Judge for consideration of the relief requested. If the plaintiff has requested that the garnishment be dismissed, the Court will enter its own form order dismissing the garnishment.

If the Garnishment Praecipe form has not been filed by the review date, the Court will issue an Order to Show Cause to the plaintiff or plaintiff's counsel why this garnishment action should not be dismissed. This order to Show Cause will be returnable four Fridays from the review date and will be placed on the 9:00 a.m. without a Judge docket. If the Garnishment Praecipe form has been filed by this date, **no appearance is necessary**. If the form has not been filed, then the plaintiff or plaintiff's counsel should appear to explain why no action on this garnishment has yet been taken by the plaintiff.

7. **Conclusion**

As a result of the above procedures it is the expectation of the Court that virtually all garnishment actions will be concluded within sixty days of the return date.

Note: Garnishments issued pursuant to 20-78.1 shall continue until modified by the issuing court, or in the case of an arrearage, until the sum or sums of money found to be in arrears are paid in full.